

THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOSEPH CAPECE

Plaintiff

v.

HESS MASCHINENFABRIK GmbH &  
CO. KG

Defendant

3:12-CV-1542  
(JUDGE MARIANI)

ORDER

AND NOW, THIS 20TH DAY OF MARCH, 2015, upon consideration of Defendant Hess Maschinefabrik GmbH & Co. KG's Motion for Summary Judgment (Doc. 29) and all accompanying briefs, **IT IS HEREBY ORDERED THAT:**

1. Defendant's Motion for Summary Judgment (Doc. 29) is **GRANTED IN PART AND DENIED**

**IN PART**; to wit:

- a. The motion is **DENIED** as to Count I, Count II, and Plaintiff's breach of express warranty claim in Count III.
  - b. The motion is **GRANTED** as to Plaintiff's breach of implied warranty claim in Count III.
2. A telephone scheduling conference will be held on **Friday, April 3, 2015, at 2:00 p.m.**

Counsel for Plaintiff is responsible for arranging the call to (570) 207-5750, and all parties should be ready to proceed before the undersigned is contacted.

  
Robert D. Mariani  
United States District Judge